

STATE CORPORATION COMMISSION

AT RICHMOND, APRIL 27, 2020

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APPLICATION OF

MASSANUTTEN PUBLIC SERVICE
CORPORATION

CASE NO. PUR-2020-00039

For an expedited increase in water
and sewer ratesORDER FOR NOTICE AND HEARING

On April 8, 2020, Massanutten Public Service Corporation ("Massanutten" or "Company") completed the filing with the State Corporation Commission ("Commission") of an application for an expedited increase in its water and sewer rates, together with certain schedules filed under seal pursuant to 5 VAC 5-20-170, *Confidential information*, of the Commission's Rules of Practice and Procedure ("Rules of Practice"),¹ and testimonies and exhibits ("Application").² The Company filed its Application pursuant to Chapter 10 of Title 56 of the Code of Virginia ("Code")³ and the Commission's Rules Governing Utility Rate Applications and Annual Informational Filings.⁴ Massanutten also filed a Motion for Entry of a Protective Order in accordance with 5 VAC 5-20-170 of the Commission's Rules of Practice.

The Company requests authority to increase its rates for water and sewer service to produce an increase in water revenues of \$415,868 and in wastewater revenues of \$323,449.⁵

¹ 5 VAC 5-20-10 *et seq.*

² The Company initially filed its Application on March 11, 2020. It was deemed incomplete by the Staff of the Commission ("Staff") on March 24, 2020.

³ Code § 56-232 *et seq.*

⁴ 20 VAC 5-201-10 *et seq.*

⁵ Application at 2.

The Company indicates that this rate request is based on a 9.25% return on equity.⁶ Massanutten proposes to allocate the revenue increase for water and wastewater to five⁷ customer classes producing the following revenue increase by class:⁸

<u>Class</u>	<u>Water Revenue Increase</u>	<u>Wastewater Revenue Increase</u>
Residential	49.75%	28.62%
Low Income Residential	-20.24%	-34.86%
Commercial	8.89%	-8.09%
Hospitality	22.78%	13.41%
Water Park	-19.68%	-18.20%

Currently the monthly base facilities charge applicable to water service for all customers ranges from \$13.82 to \$345.58 as the meter size increases from 5/8" to 4".⁹ Under the proposed rates, the monthly base facilities charge would range from \$17.68 to \$442.03 as the meter size increases from 5/8" to 4".¹⁰ Additionally, the Company proposes the following changes in water charges per 1,000 gallons to the five customer classes:¹¹

<u>Class</u>	<u>Current Charge</u>	<u>Proposed Charge</u>
Residential	\$8.65	\$14.00
Low Income Residential	\$8.65	\$4.58
Commercial	\$6.38	\$6.15
Hospitality	\$7.50	\$9.10
Water Park	\$7.10	\$5.13

⁶ *Id.*; Guttormsen Direct at 3.

⁷ *See* Dickson Direct at 8-10. The Company is proposing a new rate for both water and wastewater services to low income residential customers. In testimony, this new rate is sometimes referred to as a "lifeline" rate. *See, e.g., id.*

⁸ *Id.* at Schedule 43.

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

Concerning wastewater service, currently the monthly base facilities charge for all customers ranges from \$15.95 to \$398.72 as the meter size increases from 5/8" to 4."¹² Under the proposed rates, the monthly base facilities charge would range from \$18.21 to \$455.13 as the meter size increases from 5/8" to 4." Additionally, the Company proposes the following changes in wastewater charges per 1,000 gallons to the five customer classes:

<u>Class</u>	<u>Current Charge</u>	<u>Proposed Charge</u>
Residential	\$12.94	\$17.67
Low Income Residential	\$12.94	\$ 5.78
Commercial	\$11.71	\$ 9.59
Hospitality	\$11.71	\$13.38
Water Park	\$17.29	\$13.41

Currently, the monthly availability fee is \$4.81 (\$28.86 charged on a semiannual basis) for water and \$5.55 (\$33.30 charged on a semiannual basis) for wastewater.¹³ This would increase to \$36.92 for water and \$38.51 for wastewater billed semi-annually.¹⁴

The Company's Application reflects proposed rates with an effective date of May 1, 2020.¹⁵

NOW THE COMMISSION, having considered the Application, is of the opinion and finds that Massanutten should provide notice of its Application; a public hearing should be scheduled for the purpose of receiving testimony and evidence on the Company's Application; a procedural schedule should be established to allow interested persons an opportunity to file written or electronic comments on the Company's Application or to participate in this proceeding as a respondent; and the Staff should be directed to investigate the Application and file testimony

¹² *Id.*

¹³ *Id.* at Schedule 50.

¹⁴ *Id.* at Schedule 41

¹⁵ Guttormsen Direct at 7; Guttormsen Supplemental Direct at 7.

and exhibits containing its findings and recommendations thereon. We also find that a Hearing Examiner should be appointed to conduct all further proceedings in this matter on behalf of the Commission and to file a final report.

The Commission further takes judicial notice of the ongoing public health emergency related to the spread of the coronavirus, or COVID-19, and the declarations of emergency issued at both the state and federal levels.¹⁶ The Commission has taken certain actions, and may take additional actions going forward, that could impact the procedures in this proceeding.¹⁷ Consistent with these actions, in regard to the terms of the procedural framework established below, the Commission will, among other things, direct the electronic filing of testimony and pleadings unless it contains confidential information, and require electronic service on parties to this proceeding.

Also in light of the current COVID-19 public health crisis that has caused devastating economic effects that impact all utility customers, we will suspend Massanutton's proposed rates for 180 days, the maximum allowed by law.¹⁸

¹⁶ See, e.g., Executive Order No. 51, Declaration of a State of Emergency Due to Novel Coronavirus, COVID-19, issued March 12, 2020, by Governor Ralph S. Northam. See also Executive Order No. 53, Temporary Restrictions on Restaurants, Recreational, Entertainment, Gatherings, Non-Essential Retail Businesses, and Closure of K-12 Schools Due to Novel Coronavirus (COVID-19), issued March 23, 2020, by Governor Ralph S. Northam, and Executive Order No. 55, Temporary Stay at Home Order Due to Novel Coronavirus (COVID-19), issued March 30, 2020, by Governor Ralph S. Northam.

¹⁷ See, e.g., *Commonwealth of Virginia, ex rel. State Corporation Commission, Ex Parte: Electronic Service of Commission Orders*, Case No. CLK-2020-00004, Doc. Con. Cen. No. 200330035, Order Concerning Electronic Service of Commission Orders (Mar. 19, 2020); *Commonwealth of Virginia, ex rel., State Corporation Commission, Ex Parte: Revised Operating Procedures During COVID-19 Emergency*, Case No. CLK-2020-00005, Doc. Con. Cen. No. 200330042, Order Regarding the State Corporation Commission's Revised Operating Procedures During COVID-19 Emergency (Mar. 19, 2020) ("Revised Operating Procedures Order"); *Commonwealth of Virginia, ex rel. State Corporation Commission, Ex Parte: Electronic service among parties during COVID-19 emergency*, Case No. CLK-2020-00007, Doc. Con. Cen. No. 200410009, Order Requiring Electronic Service (Apr. 1, 2020).

¹⁸ See Va. Code § 56-238. In addition to maximum suspension of rates, we have also responded to this economic emergency by, among other actions, temporarily suspending customer service disconnections for customers of Virginia utilities during the pandemic emergency. *Commonwealth of Virginia ex rel. State Corporation Commission, Ex Parte: Temporary Suspension of Tariff Requirements*, Case No. PUR-2020-00048, Doc. Con. Cen. No. 200320175, Order Suspending Disconnection of Service and Suspending Tariff Provisions Regarding Utility

Accordingly, IT IS ORDERED THAT:

- (1) This matter is docketed and assigned Case No. PUR-2020-00039.
- (2) All pleadings, briefs, or other documents required to be served in this matter should be submitted electronically to the extent authorized by Rule 5 VAC 5-20-150, *Copies and format*, of the Commission's Rules of Practice. Confidential and Extraordinarily Sensitive information shall not be submitted electronically and should comply with 5 VAC 5-20-170, *Confidential information*, of the Rules of Practice. For the duration of the COVID-19 emergency, any person seeking to hand deliver and physically file or submit any pleading or other document shall contact the Clerk's Office Document Control Center at (804) 371-9838 to arrange the delivery.¹⁹
- (3) Pursuant to 5 VAC 5-20-140, *Filing and service*, of the Commission's Rules of Practice, the Commission directs that service on parties and the Staff in this matter shall be accomplished by electronic means. Concerning Confidential or Extraordinarily Sensitive Information, parties and the Staff are instructed to work together to agree upon the manner in which documents containing such information shall be served upon one another, to the extent practicable, in an electronically protected manner, even if such information is unable to be filed in the Office of the Clerk, so that no party or the Staff is impeded from preparing its case.
- (4) As provided by Code § 12.1-31 and Rule 5 VAC 5-20-120, *Procedures before hearing examiners*, of the Commission's Rules of Practice, a Hearing Examiner is appointed to

Disconnections of Service (Mar. 16, 2020), *extended by* Doc. Con. Cen. No. 200410196, Order Extending Suspension of Service Disconnections (Apr. 9, 2020).

¹⁹ As noted in the Commission's Revised Operating Procedures Order, submissions to the Commission's Clerk's Office via U.S. mail or commercial mail equivalents may not be processed for an indefinite period of time due to the COVID-19 emergency.

conduct all further proceedings in this matter on behalf of the Commission and to file a final report.

(5) Massanutten's proposed rates are suspended for the maximum period of 180 days, and the Company may implement its proposed rates on an interim basis, subject to refund with interest on or after October 5, 2020.

(6) On or before September 4, 2020, Massanutten shall file a bond with the Commission in the amount of \$739,316 payable to the Commission and conditioned to insure the prompt refund by the Company to those entitled thereto of all amounts the Company shall collect in excess of such rates and charges as the Commission may finally fix and determine.

(7) A public hearing on the Application shall be convened at 10 a.m. on October 7, 2020, in the Commission's second floor courtroom located in the Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, to receive into the record the testimony of public witnesses and evidence of the Company, any respondents, and the Staff. Any person desiring to offer testimony as a public witness need only appear at the hearing location fifteen (15) minutes before the starting time of the hearing and identify himself or herself to the Commission's Bailiff.

(8) Interested persons may obtain a copy by submitting a written request to counsel for Massanutten, Brian R. Greene, Esquire, GreeneHurlocker, PLC, 4908 Monument Avenue, Suite 200, Richmond, Virginia 23230, or Bgreene@greenehurlocker.com. Where possible, the interested person's request shall include an electronic mail address to which the Company may send the requested documents. The Company shall provide the documents by electronic means where possible. Interested persons also may download unofficial copies from the Commission's website: <https://scc.virginia.gov/pages/Case-Information>.

(9) On or before May 22, 2020, Massanutten shall cause the following notice to be published as display advertising (not classified) on one (1) occasion in newspapers of general circulation throughout the Company's Virginia service territory:

NOTICE TO THE PUBLIC OF
MASSANUTTEN PUBLIC SERVICE CORPORATION'S
APPLICATION FOR AN EXPEDITED INCREASE IN WATER
AND SEWER RATES
CASE NO. PUR-2020-00039

- **Massanutten Public Service Corporation has applied for approval to increase its water and sewer rates to produce an increase in water revenues of \$415,868 and in wastewater revenues of \$323,449.**
- **A Hearing Examiner appointed by the Commission will hear the case on October 7, 2020, at 10 a.m.**
- **Further information about this case is available on the SCC website at:**
<https://scc.virginia.gov/pages/Case-Information>.

On April 8, 2020, Massanutten Public Service Corporation ("Massanutten" or "Company") completed the filing with the State Corporation Commission ("Commission") of an application for an expedited increase in its water and sewer rates, together with certain schedules filed under seal pursuant to 5 VAC 5-20-170, *Confidential information*, of the Commission's Rules of Practice and Procedure ("Rules of Practice"), and testimonies and exhibits ("Application"). The Company filed its Application pursuant to Chapter 10 of Title 56 of the Code of Virginia ("Code") and the Commission's Rules Governing Utility Rate Applications and Annual Informational Filings.

The Company requests authority to increase its rates for water and sewer service to produce an increase in water revenues of \$415,868 and in wastewater revenues of \$323,449. The Company indicates that this rate request is based on a 9.25% return on equity. Massanutten proposes to allocate the revenue increase for water and wastewater to five customer classes producing the following revenue increase by class:

<u>Class</u>	<u>Water Revenue</u>	<u>Wastewater Revenue</u>
	<u>Increase</u>	<u>Increase</u>
Residential	49.75%	28.62%
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The Company's Application reflects proposed rates with an effective date of May 1, 2020.

Interested persons are encouraged to review the Application and supporting documents for the details of these and other proposals.

TAKE NOTICE: While the total revenue that may be approved by the Commission is limited to the amount produced by the Company's proposed rates, the Commission may approve revenues and adopt rates, fees, charges, tariff revisions, and terms and conditions of service that differ from those appearing in the Application. The Commission also may apportion revenues among customer classes and/or design rates in a manner differing from that shown in the Application.

The Commission entered an Order for Notice and Hearing that, among other things, permits the Company to place its proposed rates, charges, and terms and conditions of service into effect on an interim basis, subject to refund, effective for service rendered on and after October 5, 2020.

The Commission's Order for Notice and Hearing scheduled a public hearing at 10 a.m. on October 7, 2020, in the Commission's second floor courtroom located in the Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, to receive the testimony of public witnesses and the evidence of the Company, any respondents, and the Commission's Staff. Any person desiring to testify as a public witness should appear at the hearing location fifteen (15) minutes prior to the starting time of the hearing and contact the Commission's Bailiff.

The Commission has taken judicial notice of the ongoing public health emergency related to the spread of the coronavirus, or COVID-19, and the declarations of emergency issued at both the state and federal levels. In accordance therewith, all pleadings, briefs, or other documents required to be served in this matter should be submitted electronically to the extent authorized by 5 VAC 5-20-150, *Copies and format*, of the Commission's Rules of Practice. Confidential and Extraordinarily Sensitive information shall not be submitted electronically and should comply with 5 VAC 5-20-170, *Confidential information*, of the Rules of Practice. For the duration of the COVID-19 emergency, any person seeking to hand deliver and physically file or submit any pleading or other document shall contact the Clerk's Office Document Control Center at (804) 371-9838 to arrange the delivery.

Pursuant to 5 VAC 5-20-140, *Filing and service*, of the Commission's Rules of Practice, the Commission has directed that service on parties and the Commission's Staff in this matter shall be accomplished by electronic means. Please refer to the Commission's Order for Notice and Hearing for further instructions concerning Confidential or Extraordinarily Sensitive Information.

Interested persons may download unofficial copies of the Application from the Commission's website: <https://scc.virginia.gov/pages/Case-Information>. Copies of these documents also may be obtained, at no charge, by submitting a written request to counsel for the Company: Brian R. Greene, Esquire, GreeneHurlocker, PLC, 4908 Monument Avenue, Suite 200, Richmond, Virginia 23230, or Bgreene@hurlocker.com.

On or before September 30, 2020, any interested person may file comments on the Company's Application with Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118. Interested persons desiring to submit comments electronically may do so on or before September 30, 2020, by following the instructions found on the Commission's website: <https://scc.virginia.gov/casecomments/Submit-Public-Comments>. Compact disks or any other form of electronic storage medium cannot be filed with the comments. All such comments shall refer to Case No. PUR-2020-00039.

Any person or entity may participate as a respondent in this proceeding by filing a notice of participation on or before July 22, 2020. If not filed electronically, an original and fifteen (15) copies of a notice of participation shall be filed with the Clerk of the Commission at the address set forth above. A copy of the notice of participation shall be sent to counsel for Massanutten at the electronic mail address set forth above. Pursuant to Rule 5 VAC 5-20-80, *Participation as a respondent*, of the Commission's Rules of Practice, any notice of participation shall set forth: (i) a precise statement of the interest of the respondent; (ii) a statement of the specific action sought to the extent then known; and (iii) the factual and legal basis for the action. Any organization, corporation, or government body participating as a respondent shall be represented by counsel as required by Rule 5 VAC 5-20-30, *Counsel*, of the Rules of Practice. All filings shall refer to Case No. PUR-2020-00039. For additional information about participation as a respondent, any person or entity should obtain a copy of the Commission's Order for Notice and Hearing.

The Commission's Rules of Practice may be viewed at the Commission's website: <https://scc.virginia.gov/pages/Rules-of-Practice-and-Procedure>.

MASSANUTTEN PUBLIC SERVICE CORPORATION

(10) Massanutten shall include the text of the public notice prescribed in Ordering Paragraph (9) on one (1) occasion as a bill insert for its customers. The inclusion of the bill insert shall commence as soon as practicable and shall continue until all customers have received the insert. Alternatively, Massanutten may send the text of the public notice by a separate mailing to customers, with such mailing being made no later than May 22, 2020.

(11) On or before May 22, 2020, Massanutten shall serve a copy of its Application and this Order for Notice and Hearing on the following local officials, to the extent the position exists, in each county, city, and town in which Massanutten provides service in the Commonwealth of Virginia: the chairman of the board of supervisors of each county; the mayor or manager (or equivalent official) of every city or town; and the county, city, or town attorney. Service shall be made electronically where possible; if electronic service is not possible, service shall be made by either personal delivery or first class mail to the customary place of business or residence of the person served.

(12) On or before June 1, 2020, Massanutten shall file proof of the notice and service required by Ordering Paragraphs (9), (10) and (11), including the name, title, address, and electronic mail address (if applicable) of each official served, with Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118, or by filing electronically at <https://scc.virginia.gov/clk/efiling/>.

(13) On or before September 30, 2020 any interested person may file written comments on the Application with the Clerk of the Commission at the address set forth in Ordering Paragraph (12). Any interested person desiring to file comments electronically may do so on or

before September 30, 2020, by following the instructions found on the Commission's website: <https://scc.virginia.gov/casecomments/Submit-Public-Comments>. Compact disks or any other form of electronic storage medium may not be filed with the comments. All comments shall refer to Case No. PUR-2020-00039.

(14) On or before July 22, 2020, any person or entity may participate as a respondent in this proceeding by filing a notice of participation. If not filed electronically, an original and fifteen (15) copies of a notice of participation shall be filed with the Clerk of the Commission at the address in Ordering Paragraph (12), and each respondent shall serve a copy of the notice of participation on counsel to Massanutten at the electronic mail address set forth in Ordering Paragraph (8). Pursuant to Rule 5 VAC 5-20-80 B, *Participation as a respondent*, of the Commission's Rules of Practice, any notice of participation shall set forth: (i) a precise statement of the interest of the respondent; (ii) a statement of the specific action sought to the extent then known; and (iii) the factual and legal basis for the action. Any organization, corporation, or government body participating as a respondent shall be represented by counsel as required by 5 VAC 5-20-30, *Counsel*, of the Rules of Practice. All filings shall refer to Case No. PUR-2020-00039.

(15) Within five (5) business days of receipt of a notice of participation as a respondent, the Company shall serve upon the respondent a copy of this Order, a copy of the Application, and all materials filed by the Company with the Commission, unless these materials already have been provided to the respondent.

(16) On or before August 12, 2020, each respondent may file with the Clerk of the Commission and serve on the Staff, the Company, and all other respondents, any testimony and exhibits by which the respondent expects to establish its case, and each witness's testimony shall include a summary not to exceed one page. If not filed electronically, an original and fifteen

(15) copies of such testimony and exhibits shall be filed with the Clerk of the Commission at the address set forth in Ordering Paragraph (12). In all filings, respondents shall comply with the Commission's Rules of Practice, including, but not limited to: 5 VAC 5-20-140, *Filing and service*, and 5 VAC 5-20-240, *Prepared testimony and exhibits*. All filings shall refer to Case No. PUR-2020-00039.

(17) The Staff shall investigate the Application. On or before September 9, 2020, the Staff shall file with the Clerk of the Commission its testimony and exhibits concerning the Application, and each Staff witness's testimony shall include a summary not to exceed one page. The Staff shall serve a copy thereof on counsel to the Company and all respondents.

(18) On or before September 23, 2020, Massanutten shall file with the Clerk of the Commission: (a) any rebuttal testimony and exhibits that it expects to offer, and each rebuttal witness's testimony shall include a summary not to exceed one page; and (b) a summary not to exceed one page of each direct witness's testimony if not previously included therewith. The Company shall serve a copy thereof on the Staff and all respondents. If not filed electronically, an original and fifteen (15) copies of such rebuttal testimony and exhibits shall be filed with the Clerk of the Commission at the address set forth in Ordering Paragraph (12).

(19) Any documents filed in paper form with the Office of the Clerk of the Commission in this docket may use both sides of the paper. In all other respects, except as modified by Ordering Paragraph (2), all filings shall comply fully with the requirements of 5 VAC 5-20-150, *Copies and format*, of the Commission's Rules of Practice.

(20) The Commission's Rule of Practice 5 VAC 5-20-260, *Interrogatories to parties or requests for production of documents and things*, shall be modified for this proceeding as follows: responses and objections to written interrogatories and requests for production of documents shall be served within seven (7) business days after receipt of the same. In addition

to the service requirements of 5 VAC 5-20-260 of the Rules of Practice, on the day that copies are filed with the Clerk of the Commission, a copy of the interrogatory or request for production shall be served electronically on the party to whom the interrogatory or request for production is directed or the assigned Staff attorney, if the interrogatory or request for production is directed to the Staff.²⁰ Except as modified above, discovery shall be in accordance with Part IV of the Commission's Rules of Practice, 5 VAC 5-20-240 *et seq.*

(21) This matter is continued.

A COPY hereof shall be sent electronically by the Clerk of the Commission to all persons on the official Service List in this matter. The Service List is available from the Clerk of the Commission.

²⁰ The assigned Staff attorney is identified on the Commission's website, <https://scc.virginia.gov/pages/Case-Information>, by clicking "Docket Search," then clicking "Search by Case Information," and entering the case number, PUR-2020-00039 in the appropriate box.